IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 8TH DECEMBER 2006 / 17TH AGRAHAYANA 1928

WP(C).No. 17040 of 2006(C)

PETITIONER:

V.S.RAVEENDRAN PILLAI,
RAJDHANI RESTAURANT,
KACHERI JUNCTION,
AMBALAPUZHA, ALAPPUZHA.

BY ADV. SRI.A.SUDHI VASUDEVAN

RESPONDENTS:

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1. STATE OF KERALA,
REP. BY ITS SECRETARY,
TAXES (G) DEPARTMENT,
THIRUVANANTHAPURAM.

2. THE EXCISE COMMISSIONER,
COMMISSIONERATE OF EXCISE,
THIRUVANANTHAPURAM.

3. ASST. EXCISE COMMISSIONER,
ALAPPUZHA.

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C)NO.17040 OF 2006

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Dated this the 8th day of December 2006

JUDGMENT

Petitioner has got a certificate issued by the Hotel and Restaurant Approval and Classification Committee granting approval to the restaurant with effect from 8-5-2001. Petitioner's case is that application for FL-3 licence was declined because petitioner did not have classification required for the licence at the time of considering the application. Petitioner produced Ext.P10 judgment which again is issued following a Division Bench decision of this court directing Excise Commissioner to consider application for renewal of licence with respect to law as on date of making application.

2. In the circumstances, respondents 2 and 3/Excise Commissioner and Assistant Excise Commissioner respectively are directed to consider petitioner's application for FL-3 licence based on Ext.P10 judgment and any other judgment of this court to be relied on by the petitioner. Based on Ext.P10 judgment and decision of this court in **B.6 Holiday Resorts Pvt. Ltd. v. State of Kerala** [**2003 (1) KLT 984],** it is open to the Excise

Commissioner to issue licence on payment of licence fee for the whole year as in other cases. If Government sanction is required, the Commissioner will refer the matter to Government and Government should communicate the decision. Petitioner's eligibility will be considered with reference to fresh qualification issued. The Excise Commissioner will consider petitioner's eligibility with reference to the qualification required as on the date of application. Final orders should be issued within one month from the date of production of a copy of this judgment.

Writ petition is disposed of as above.

C.N.RAMACHANDRAN NAIR, JUDGE

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